

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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UNITED STATES OF AMERICA : CRIMINAL NO. 11-574-1
:
v. : Philadelphia, Pennsylvania
: July 10, 2012
MICHAEL HOMER : 10:26 o'clock a.m.
.

CHANGE OF PLEA HEARING
BEFORE THE HONORABLE TIMOTHY R. RICE
UNITED STATES MAGISTRATE JUDGE

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APPEARANCES:

For the Government: MEREDITH TAYLOR, ESQUIRE
U.S. Attorney's Office
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106

For the Defendant: DAVID M. LAIGAIE, ESQUIRE
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1 (The following occurred in open court at 10:26
2 o'clock a.m.:)

3 THE COURT: Good morning, everyone. Please be
4 seated.

5 ALL: Good morning, your Honor.

6 THE COURT: Mr. Laigaie, Ms. Taylor, how are you?

7 MS. TAYLOR: Good.

8 MR. LAIGAIE: I'm very well, thanks.

9 THE COURT: And Mr. Homer?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Good morning, sir.

12 And Christina is our court reporter today. Welcome.

13 THE AUDIO OPERATOR: Thank you.

14 THE COURT: Thank you.

15 All right. We're here for a guilty plea, Mr. Homer,
16 and I just wanted to go over some questions with you to make
17 sure your plea is being entered knowingly and voluntarily.
18 So the first thing I'm going to do is I'm going to have
19 Christina swear you. So can you just stand and take the
20 oath, please?

21 THE AUDIO OPERATOR: Please remain standing and
22 raise your right hand.

23 MICHAEL HOMER, Sworn.

24 THE AUDIO OPERATOR: Thank you. You may be seated.

25 THE COURT: Okay, thank you.

1 All right. Mr. Homer, I just want to remind you now
2 that you're under oath, so any answers you give now you swear
3 to tell the truth and, if you don't, your answers could be
4 used against you in a prosecution for perjury, all right? Do
5 you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Okay, great. Now, if I say anything
8 today that you don't understand or you're confused by, you
9 can ask me to repeat it or you can ask for time to speak with
10 your attorney, Mr. Laigaie, who is very experienced, and I'll
11 give you all the time to talk you need to talk to him about
12 any questions or about anything you don't understand. Do you
13 understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Okay. If you want to talk to him at any
16 time, you can do that.

17 Just state your full name and age, please?

18 THE DEFENDANT: Michael George Homer, 50 years old,
19 5/4/62.

20 THE COURT: Okay. And can you read, write and speak
21 English?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: All right. And how far did you go in
24 school?

25 THE DEFENDANT: 12 plus three years in airframe and

1 power-plant school.

2 THE COURT: Okay, very good. Now, I know this
3 offense involves some substance abuse issues, but have you
4 ever been treated for a drug or alcohol condition or mental
5 illness?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Why don't you talk to me about your
8 situation in that regard?

9 THE DEFENDANT: I was treated for Xanax abuse a
10 couple years ago and just recently I was treated again for --
11 for something and it's in the record, I forget what exactly
12 it is.

13 THE COURT: This is with Pretrial Services?

14 THE DEFENDANT: Yes, they would have it.

15 THE COURT: You were at the -- in a rehab center,
16 Rehab Services in Chadds Ford since March 15 -- May 15th,
17 2012. And there was also some -- a DUI situation from before
18 this case?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Have you gotten treatment for that?

21 THE DEFENDANT: Yes.

22 THE COURT: Okay. Are you still in treatment for
23 the drug abuse?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Where are you in treatment?

1 THE DEFENDANT: Rehab After Work in Chadds Ford.

2 THE COURT: Okay, all right. And are you satisfied
3 with that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Getting all the help you need? Okay,
6 very good.

7 Now, have you had any drugs or alcohol within the
8 last few days?

9 THE DEFENDANT: No, sir.

10 THE COURT: When was the last time you had drugs or
11 alcohol?

12 THE DEFENDANT: I may have had a couple beers a week
13 ago --

14 THE COURT: Okay.

15 THE DEFENDANT: -- two or three Bud Lights.

16 THE COURT: Okay. But you're feeling fine today?

17 THE DEFENDANT: Oh, yeah.

18 THE COURT: Okay.

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: All right. And you understand
21 everything that's going on?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Okay, very good.

24 Now, has Mr. Laigaie gone over the charges against
25 you and fully explained to you your trial rights and the

1 defenses you could bring to those charges?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: All right. Does somebody have the plea
4 agreement?

5 MR. LAIGAIE: Yes, your Honor, I do.

6 THE COURT: Could you just verify for me, Mr. Homer,
7 that that's the plea agreement you went over with Mr. Laigaie
8 and that's your signature on it?

9 THE DEFENDANT: Yes, your Honor, that's it.

10 THE COURT: All right. Did you voluntarily sign
11 that plea agreement?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And did you also sign an advice-of-
14 rights form that's attached to that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Did Mr. Laigaie go over all those rights
17 with you?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: All right. And did Mr. Laigaie explain
20 to you all the terms of the plea agreement?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Okay. I'm going to go over some of them
23 with you today again just to make sure, but I just want to
24 make sure you've had adequate time to think about this.

25 All right. Do you want to file the original or give

1 it to us?

2 MS. TAYLOR: We can hand it up now, your Honor.

3 THE COURT: Okay.

4 (Pause.)

5 THE COURT: Do you feel, Mr. Homer, that you've had
6 enough time to go over the agreement with Mr. Laigaie?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: And so far has he done everything that
9 you wanted him to do on this case?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: All right. Ms. Taylor, could you
12 summarize the terms of the plea agreement for the Court?

13 MS. TAYLOR: Yes, your Honor. The plea agreement
14 contemplates that Mr. Homer will plead guilty to Count 1 of
15 the information, which charges him with attempted possession
16 of Oxycodone, arising from his attempt to illegally purchase
17 prescription medication from an employee at the Boeing Ridley
18 Park facility.

19 Paragraph 2 of the plea agreement indicates what the
20 Government will do, which is make any sentencing
21 recommendation that we feel is appropriate, comment on the
22 evidence and circumstances of the case, and bring any of the
23 relevant facts to the Court's attention at the time of
24 sentencing.

25 Paragraph 3 explains to Mr. Homer the statutory

1 maximum of this one count, which is one year in prison, one
2 year of supervised release, a \$1,000 fine and a \$100 special
3 assessment.

4 Paragraph 4 includes the financial obligations that
5 Mr. Homer is agreeing to.

6 Paragraph 5 includes that he will pay the \$100
7 Special Victims/Witness assessment.

8 Paragraph 6 explains that Mr. Homer may not withdraw
9 his plea because the Court declines to follow any
10 recommendation or stipulation by the parties. No one has
11 promised or guaranteed Mr. Homer what sentence the Court will
12 impose, of course.

13 Paragraph 7 includes the stipulations that the
14 parties have agreed to, also including the fact that these
15 stipulations are not binding on the Probation Office or the
16 Court. The stipulations are, however, that Mr. Homer did
17 attempt to possess five Oxycontin 40 milligram tablets, each
18 of which is a mixture and substance containing a detectable
19 amount of Oxycodone, and that as of the date of this
20 agreement Mr. Homer has demonstrated acceptance of
21 responsibility, making him eligible for the two-level
22 downward adjustment.

23 Paragraph 8 includes the fact that Mr. Homer is
24 waiving or giving up his right to appeal or collaterally
25 attack his sentence. Of course, if the Government appeals

1 from the sentence, Mr. Homer may file a direct appeal; if the
2 Government does not appeal, then Mr. Homer's appellate rights
3 or his rights to collaterally attack the sentence are very
4 limited, specifically to three areas: If his sentence
5 exceeds the statutory maximum, if the sentencing court
6 erroneously departs upward, or if the sentencing court
7 imposes an unreasonable sentence pursuant to United States v.
8 Booker.

9 In Paragraph 9, Mr. Homer waives all his rights to
10 request any records under the Freedom of Information Act.

11 Paragraph 10, Mr. Homer is satisfied with his legal
12 representation.

13 And Paragraph 11 makes it clear that this written
14 plea agreement is the only agreement between the parties;
15 there are no additional promises, agreements or
16 understandings other than those that are written and signed
17 by all parties in this document.

18 THE COURT: All right. Thank you, Ms. Taylor.

19 Mr. Laigaie, are those the terms of the plea
20 agreement that you negotiated on behalf of your client?

21 MR. LAIGAIE: Yes, they are, your Honor.

22 THE COURT: All right. And, Mr. Homer, do you agree
23 that these are the terms of the plea agreement that you're
24 entering?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Okay. Other than the terms Ms. Taylor
2 outlined and that are written in that document, did anyone
3 promise or offer you anything else to get you to plead
4 guilty?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: All right. Do you understand that no
7 one can guarantee you what sentence that you'll receive from
8 me?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Did anyone use force, violence or
11 threats to get you to plead guilty?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: All right. Did you do this of your own
14 free will?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Now, I also want to talk to you about
17 potential collateral consequences. I don't know, and I don't
18 think anybody in the room knows, what impact, if any, your
19 guilty plea will have on your ability to get your job back at
20 Boeing. Do you understand that? There's a possibility that
21 by pleading guilty and if you are found guilty of this
22 offense, it could adversely impact your ability to get
23 rehired at Boeing. Do you understand that? You have to say
24 yes or no.

25 (Discussion held off the record.)

1 THE COURT: Do you want to take a minute and speak
2 to your lawyer about it?

3 THE DEFENDANT: Oh, I'm sorry, yes, your Honor.

4 THE COURT: Yeah, I just want to make sure that you
5 understand it could have an impact, I don't know if it will
6 or it won't.

7 THE DEFENDANT: I'm sorry, I was just nodding
8 because I've been there 25 years and it's just like when you
9 said that, it kind of hit me like, you know, wow.

10 THE COURT: Yeah.

11 THE DEFENDANT: Sorry.

12 THE COURT: No, that's okay, but you could -- you
13 have a right to go to trial, if you want. If you're found
14 not guilty, then that's not an issue.

15 THE DEFENDANT: No, I apologize. No, your Honor.

16 THE COURT: You don't have to apologize. If you
17 need time to think about it, you can have it.

18 THE DEFENDANT: I'm fine.

19 THE COURT: Okay. All right. Did anyone tell you
20 what to say today or put words in your mouth --

21 THE DEFENDANT: No, your Honor.

22 THE COURT: -- as you're proceeding?

23 All right. Do you understand that by pleading
24 guilty to this offense, in addition to the possible adverse
25 effect on your job, it could have other -- other adverse

1 consequences on some of the rights you have, such as your
2 right to vote and things like that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: All right. And if you -- for example,
5 if you weren't a U.S. citizen, it could affect whether you
6 would be deported. Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: All right. Now, have you ever been on
9 supervision for any crime before like probation or parole?

10 THE DEFENDANT: No, your Honor.

11 THE COURT: Okay. Now, the DUI situation that you
12 mentioned, that's resolved, you served your sentence?

13 THE DEFENDANT: Yes, your Honor, I just got it.

14 THE COURT: Okay. Are you on probation for that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Okay. What's the sentence there?

17 THE DEFENDANT: One year probation.

18 THE COURT: All right. Now, a prior conviction
19 could affect what your Sentencing Guideline range could be,
20 because I'm going to be given a range of a sentence that I
21 should consider for you, no more than a year in prison, but
22 whether you have prior convictions could affect your
23 sentencing; do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Okay. Now, Ms. Taylor outlined the

1 maximum penalties in the plea agreement, which is one year in
2 prison, one year of supervised release, a \$1,000 fine and a
3 \$100 special assessment. Did you understand that that's the
4 maximum you could receive?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that your offense is
7 covered by the Sentencing Guidelines and I'm going to be
8 required to consider those Guidelines in imposing sentence,
9 but I may depart either upward or downward from those
10 Guidelines depending on the circumstances of your case?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: All right. That I'm going to have a
13 Probation Officer prepare a presentence report, which will
14 set forth your Sentencing Guideline range. And the Probation
15 Officer will talk to you and Mr. Laigaie about your
16 background and the circumstances of this offense, and give me
17 a fuller picture about the type of person you are to help me
18 impose sentence. Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you understand can you object to the
21 report Probation prepares --

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: -- but your guilty plea is still going
24 to be binding on you?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: All right. And you and your lawyer can
2 contest things, as can the Government, and make objections,
3 and then I'll rule on whatever the objections are. Do you
4 understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Okay. And do you understand that your
7 attorney and the Government can make -- agree on facts and
8 make recommendations, motions and requests at the sentencing,
9 but I don't have to do what they ask?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: So even if they agree that something
12 should happen at the sentencing, I'm not bound by that.

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Okay. Do you understand that there's no
15 more parole in the Federal system? So if you were sentenced
16 to a term of imprisonment, you'd have to serve that term and
17 you wouldn't be eligible for any parole.

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: All right. Now, I understand you've
20 executed an appellate waiver in Paragraph 8. I just want to
21 take a minute and go over that with you, because that's very
22 important. You have a right normally to bring in later
23 proceedings such as a habeas corpus petition or an appeal,
24 you have a right to challenge what happened here; you have a
25 right to challenge whether you're satisfied with Mr. Laigaie,

1 you have a right to challenge whether you're satisfied with
2 the way I conducted this proceeding or the sentence I impose;
3 that the plea agreement you signed greatly limits your rights
4 to appeal and prevents you from using later proceedings like
5 a collateral attack or a habeas corpus petition to challenge
6 your conviction, your sentence or any other matter. Do you
7 understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: All right. So that you're giving up
10 your right to challenge almost everything in this case other
11 than what's listed in Paragraph 8 and the only way you could
12 appeal or file a challenge against your attorney's
13 performance or anything I did is if the -- is if I violated
14 one of these provisions of Paragraph 8. Like, for example,
15 if I gave you more than a year in prison or if I upward
16 departed from what your sentencing range was without
17 justification. So your appellate rights, which are very
18 significant, have been severely diminished under this plea
19 agreement. Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: And you're willing to give those up?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: All right. Let me just go over some
24 constitutional rights. I know you signed the Acknowledgment
25 of Rights form attached to the plea agreement, but I just

1 want to go over some of the constitutional rights you're
2 giving up to ensure you understand what you're relinquishing.

3 Do you understand that you're presumed innocent and,
4 unless and until you're proven guilty by the Government
5 beyond a reasonable doubt, that presumption of innocence will
6 remain with you, and you're giving up the presumption of
7 innocence by pleading guilty?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: All right. Do you understand that you
10 have a right to the assistance of a lawyer at every stage of
11 the proceedings, including before trial, during trial, after
12 trial for any appeals to higher courts, and that if you can't
13 afford a lawyer one will be appointed for you free of charge?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Do you understand that you have a right
16 to plead not guilty and persist in that plea and have your
17 case tried by either a jury of 12 or by a judge sitting
18 alone?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you also understand, by the way, that
21 I'm a Magistrate Judge and you have the right to have your
22 case heard by what's called a District Court Judge, and you
23 have agreed to have me resolve your case rather than go
24 before a District Court Judge; do you understand that?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Okay. Do you understand that you have a
2 right to have a jury of your peers drawn from the residents
3 of this District and that you would get help from Mr. Laigaie
4 in picking who will be on your jury?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that in order to find
7 you guilty the verdict of the jury must be unanimous, that is
8 all 12 jurors would have to agree that the Government has
9 proved every element of the crime charged beyond a reasonable
10 doubt?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: And by pleading guilty you're giving
13 that up?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: All right. Do you understand that you
16 could obtain a subpoena or court order to make witnesses come
17 to court and testify on your behalf?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that if you were found
20 guilty you could appeal such a finding of guilt to a higher
21 court, which could set aside the finding or modify the
22 finding of guilt or give you a new trial?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: And by pleading guilty under this plea
25 agreement you're giving that right to appeal up?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: All right. Do you understand that at a
3 trial you would have a right to confront and cross-examine
4 witnesses? That is, you'd be able to see it in a courtroom
5 and look your accuser in the eye, face-to-face, and challenge
6 their version of events about the crime that the Government
7 alleges you committed?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: And you're giving that up?

10 THE DEFENDANT: I'm giving it up.

11 THE COURT: Okay. Do you understand that at trial
12 you would not have to testify or take the witness stand if
13 you didn't want to and that no one could force you to take
14 the stand and, if you elected not to testify, Ms. Taylor and
15 the prosecutor could not comment to the jury or make any
16 reference about that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Do you understand that by entering a
19 guilty plea here today there will be no trial and you've
20 giving up all the rights I've just gone over with you and all
21 the rights on the Acknowledgment of Rights form?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Okay. Now, in order to prove you
24 guilty, the Government would have to prove two elements
25 beyond a reasonable doubt, let me just go over with you what

1 they are.

2 The Government would have to prove you violated
3 Title 21 United States Code Section 846, which is attempted
4 possession of Oxycodone. They'd have to show first that you
5 intended to commit the crime of illegally possessing a
6 controlled substance, in this case a mixture or substance
7 containing a detectable amount of Oxycodone; and, second,
8 that thereafter you did an act constituting a substantial
9 step toward the commission of that crime that would strongly
10 corroborate your criminal intent. Do you understand that's
11 what they would have to prove?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: All right. Now, I want you to listen to
14 Ms. Taylor, because I'm going to ask her now to summarize for
15 you the evidence they would offer at the trial. And I want
16 you to listen carefully to make sure you agree that you did
17 what she alleges, because if you disagree, I want you to tell
18 me, all right? If she says you did something you didn't do,
19 you're under oath and you have to tell me that, all right?

20 Okay. Go ahead, Ms. Taylor.

21 MS. TAYLOR: Thank you, your Honor.

22 If this case were to proceed to trial, the
23 Government would introduce evidence through witnesses and
24 documentary exhibits which would establish the following
25 facts: On September 8th, 2011, the Defendant met with an

1 individual who was cooperating with the Government outside of
2 Building 3-25 on the Boeing Company's Ridley Park,
3 Pennsylvania campus. There the Defendant bought five placebo
4 Oxycontin 40 milligram tablets from this individual for \$100.

5 THE COURT: Do you agree with Ms. Taylor that that's
6 the evidence of what you did?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: And do you have any dispute with
9 anything she said?

10 THE DEFENDANT: No, your Honor.

11 THE COURT: Did you do those things that she said?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: All right. Do you now wish to change
14 your plea to guilty? Okay.

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: If you would please stand, we'll take
17 your plea. Thank you, Mr. Homer.

18 THE DEPUTY CLERK: Michael Homer, you've been
19 charged in an Information Number 11-CR-574, in violation of
20 21 U.S.C. Section 846, attempted possession of Oxycodone; how
21 do you plead, guilty or not guilty?

22 THE DEFENDANT: Guilty.

23 THE DEPUTY CLERK: Thank you.

24 THE COURT: All right. Thank you, sir. I'll accept
25 your guilty plea and I'm going to make -- you can be seated,

1 sir -- I'm going to make a finding that you're fully alert,
2 competent and capable of entering an informed plea, that your
3 plea is a knowing and voluntary plea supported by an
4 independent basis in fact containing each of the essential
5 elements of the offenses charged. Your plea of guilty is
6 therefore accepted and you're now adjudged guilty of the
7 offense charged in the information.

8 I'm going to prepare a presentence report -- have a
9 presentence report prepared by the Probation Office. And I'm
10 going to ask you, Mr. Homer and Mr. Laigaie's assistance to
11 help the Probation Officer get the information he or she
12 needs for that report. And you can have your lawyer present
13 with you, if you want, when you answer any questions from the
14 Probation Officer.

15 What I'd like you to do after you get that report is
16 I want you to sit down and review it with Mr. Laigaie. If
17 you have any objections, you should notify the Probation
18 Officer within 14 days of filing of the report.

19 Now, sentencing is set -- okay, I guess we've agreed
20 on a sentencing date for Friday, October 5th at 10:00 a.m.
21 Is that convenient for everyone?

22 MS. TAYLOR: Yes, your Honor.

23 MR. LAIGAIE: Yes, your Honor.

24 THE COURT: Okay. Mr. Homer, is that convenient for
25 you?

1 THE DEFENDANT: That's fine.

2 THE COURT: Okay.

3 THE DEFENDANT: I'll make it fine.

4 THE COURT: Okay, thank you.

5 So we'll do sentencing there. And I received a
6 report from Pretrial Services about your bail status, it
7 seems as though you are fully compliant with all your
8 conditions and they had a pretty good report. So I'm going
9 to continue present bail; is that okay with Counsel?

10 MS. TAYLOR: Yes, your Honor.

11 MR. LAIGAIE: Yes, your Honor.

12 THE COURT: All right. Now, I want to ask you, Mr.
13 Homer, I know there's a lot of issues you're trying to tackle
14 in your life here to get beyond this and I want to make sure
15 you're getting all the help you need and if there's anything
16 I can do to help you get any additional services or
17 counseling or treatment?

18 THE DEFENDANT: I can't think of any, your Honor.

19 THE COURT: Okay. You're getting all the help you
20 need?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. Because I know this is a
23 difficult thing you're working through and it's not easy and
24 a lot of people are struggling with it who are in your
25 situation. And I'm sincere about it that I'll get the

1 Pretrial Services Office to give you any help you need. So,
2 if you sense you're on the verge of, you know, going back,
3 tell Pretrial or tell your attorney and we'll get you the
4 help you need. All right? Don't try to go it alone and
5 don't think, oh, I can just go back one time and it will be
6 okay, because we'll try to help you. Is there anything you
7 can think of?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Okay. All right. Anything else we have
10 to do today?

11 MS. TAYLOR: No, your Honor.

12 MR. LAIGAIE: No, your Honor.

13 THE COURT: Oh, one other thing -- you can be
14 seated, sir -- one other thing. We're having a hearing
15 tomorrow, there's several defendants have signed -- what's
16 the --

17 MR. LAIGAIE: Pre-judgment probation.

18 THE COURT: Pre-judgment probation, that's it. Is
19 that something that --

20 MR. LAIGAIE: Yes, your Honor. We had indicated in
21 -- Judge Jones had asked us to file a notice --

22 THE COURT: Okay.

23 MR. LAIGAIE: -- of whether we intended to seek that
24 relief and we indicated we did as soon as we, you know, got
25 through the plea process.

1 THE COURT: Okay. We're having it -- the Government
2 is going to present any evidence on that tomorrow.

3 MR. LAIGAIE: Okay.

4 THE COURT: 9:30?

5 (Discussion held off the record.)

6 THE COURT: We'll just check the time. So my
7 understanding of what the proceeding is going to be is there
8 going to be presenting evidence on general testimony about
9 the Boeing operation and then they're also going to have
10 witnesses testify about each specific defendant.

11 MR. LAIGAIE: Your Honor, having not yet filed a
12 motion on Mr. Homer's behalf, I think it would be premature.

13 THE COURT: I mean, I can -- you can make an oral
14 motion and just follow it up with a one-page thing, and then
15 you can supplement later, if you want.

16 MR. LAIGAIE: Okay. I haven't gotten any discovery
17 on that hearing that's scheduled for tomorrow, I didn't know
18 it would apply to Mr. Homer, so I'm frankly not prepared to
19 cross-examine any witnesses.

20 THE COURT: Well, I don't know if there's been
21 discovery distributed; has there, Ms. Taylor?

22 MS. TAYLOR: Your Honor, I'm not sure and -- and I'm
23 actually not sure if they're -- if Ms. Lunkenheimer and Ms.
24 Taylor are prepared to proceed on Mr. Homer, but I can
25 certainly --

1 THE COURT: I think they were --

2 MS. TAYLOR: Okay.

3 THE COURT: -- they -- I had a conference call with
4 them this morning about -- it's going to be at 9:30 in 16B --
5 they asked me to make -- or advise Mr. Homer if he's planning
6 on filing that, I doubt it. What we're going to do is
7 they'll be general testimony applicable to the facility and
8 then, if you're not prepared, then we can have somebody come
9 back and testify while Mr. Homer is at his sentencing
10 hearing, if you want to do that.

11 MR. LAIGAIE: I would, your Honor, because I hate to
12 rush into it and miss something, obviously. But if I
13 understand your Honor's instruction, I should be here at
14 least for the general aspects of the testimony?

15 THE COURT: If you want to cross-examine any of
16 those witnesses. And you can talk to Ms. Lunkenheimer or
17 Faithe Taylor about who specifically -- I don't know who is
18 specifically coming, but I think it's going to be general
19 testimony just about what they do out there, the specific
20 nature of the work, and then they were going to have a
21 cooperator testify about their interaction with each of the
22 defendants.

23 MR. LAIGAIE: Okay.

24 THE COURT: So we could take that part of the
25 testimony at the sentencing hearing.

1 MR. LAIGAIE: I think that should be fine, your
2 Honor.

3 THE COURT: Okay. Why don't you coordinate with
4 them --

5 MR. LAIGAIE: I will.

6 THE COURT: -- and at 9:30 in 16B.

7 (Discussion held off the record.)

8 THE COURT: I don't know whose room that is, but
9 it's 16B.

10 All right. I think that's all we have to do today
11 then. It's good to see both of you again.

12 Mr. Homer, I wish you well --

13 THE DEFENDANT: Thank you.

14 THE COURT: -- and I hope things work out, and I'll
15 look forward to reading the report and I'll see you in
16 October.

17 All right. Mr. Laigaie, good to see you.

18 MR. LAIGAIE: Thank you, your Honor.

19 MS. TAYLOR: Thank you, your Honor.

20 THE COURT: And, Ms. Taylor, you're staying for the
21 11:00 o'clock?

22 MS. TAYLOR: I am, your Honor.

23 THE COURT: All right, great.

24 MR. LAIGAIE: I'll see you tomorrow.

25 THE COURT: Yeah, I'm sorry to spring that on you, I

1 thought somebody had --

2 MR. LAIGAIE: I understood that there had been this
3 hearing scheduled, but I did not understand it was going to
4 apply to my client. And I put a call in -- I know vacation
5 schedules are such, but I put a call in to I think Ms.
6 Lunkenheimer just to ask her that question and never got a
7 response. So I just assumed, since we hadn't filed the
8 motion yet, we wouldn't have to deal with it tomorrow. But
9 what your Honor proposes seems to make perfect sense.

10 THE COURT: Okay. And you can just file up -- the
11 motions that have been filed today have been like one or two
12 pages.

13 MR. LAIGAIE: Okay.

14 THE COURT: So it's not a lot of -- you know, you
15 can see which ones are on the docket already.

16 MR. LAIGAIE: I will, okay. Thank you, your Honor.

17 THE COURT: Thanks. Good to see. Thank you for
18 coming in.

19 MR. LAIGAIE: Yes, thanks.

20 MS. TAYLOR: Thank you, your Honor.

21 THE COURT: Good luck to you, Mr. Homer.

22 THE DEFENDANT: Thank you.

23 (Hearing adjourned at 10:53 o'clock a.m.)

24 * * *

CERTIFICATION

I hereby certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

s:/Geraldine C. Laws, CET
Laws Transcription Service

Dated 10/3/12